



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,648	07/03/2001	James M. Carter	13429-40254	9603

7590 08/30/2005

DeWitt M. Morgan
Rodey Dickason Sloan Akin & Robb PA
P.O. Box 1888
Albuquerque, NM 87103-1888

EXAMINER

CHIANG, JACK

ART UNIT	PAPER NUMBER
----------	--------------

2642

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/898,648

Applicant(s)

CARTER, JAMES M.

Examiner

Jack Chiang

Art Unit

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 and 13-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/3/01.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

RESTRICTION

1. The restriction dated on 6/27/05 is made final.

Correction: Group II involves claims 9-12, not claims 9-14 as applicant stated
(see also applicant's response dated on 7/8/05).

Final grouping: Group I, claims 1-8, 13-14;

Group II, claims 9-12;

Group III, claim 15.

Claims 9-12 were elected and now are examined.

Claims 1-8, 13-15 are now withdrawn from further consideration.

2. This application contains claims 1-8, 13-15 drawn to an invention nonelected with traverse in Paper dated on 7/8/05. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

CLAIMS

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 9 is rejected under 35 U.S.C. 102(e) as being anticipated by Magnusson et al. (US 6712249).

Regarding claim 9, Magnusson shows a carrier for personal audio device which normally is listened to with headphones (col. 1, lines 13-14, 37-38), the carrier comprising:

A first compartment (10) for containing the audio device (col. 2, lines 46-51);

A second compartment (20) for containing speaker means (21), the second compartment (20) is detachably from the first compartment (10) (see fig. 4);

Wire means (28);

Wire take-up means (col. 3, lines 65-67, col. 4, lines 1-5) which the wire (28) may be wrapped.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magnusson in view of Bellmer (US 2678779).

Regarding claim 10, Magnusson teaches providing a spool for taking up wire (col. 4, lines 1-5).

Art Unit: 2642

Magnusson differs from the claimed invention in that it does not show a detail design of the spool, such as means for rotatably supporting the spool.

However, most of the wire take-up spools are rotatably supported. This is taught by Bellmer, such as the spool 20 shown in Bellmer.

Hence, if it is found that Magnusson does not have a rotatable wire take-up spool, then it would have been obvious for one of ordinary skill in the art to modify Magnusson with a rotatable spool with/without the teaching of Bellmer, because this is a conventional feature in order to automatically rewinding the wire back to the spool (col. 2, lines 45-47 in Bellmer).

Regarding claims 11-12, the combination of Magnusson and Bellmer shows:

The spool and a hollow portion (see 27 in Bellmer);

A third compartment for a second speaker (30 in Magnusson);

The wire means includes first and second wires (28, 30 in Magnusson; 42, 43 in Bellmer), the first and second wires include first and second twisted portions (see twisted 42-43 in Bellmer's fig. 3) and second portions being wrapped on the spool (see retracted wires in Bellmer's fig. 2).

ARGUMENT

7. In response to the paper filed 7/8/05, applicant requested that claim 15 should be grouped with claims 9-12. The examiner believed that the three groups should be the proper grouping because claim 15 is a specific wire take-up mechanism which is not

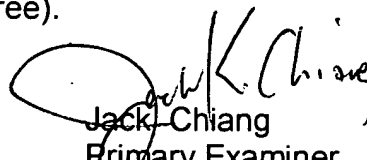
Art Unit: 2642

defined in any of the other groups and can be used in any other environment other than the claimed environment.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Chiang whose telephone number is 571-272-7483. The examiner can normally be reached on Mon.-Fri. from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on 571-272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jack Chiang
Primary Examiner
Art Unit 2642